



Consisting of Arizona Grassroots Environmental Organizations



January 27, 1992

Director Fox
ADEQ
2005 North Central,
Room 700
Phoenix, AZ 85004

Dear Director Fox,

Section 7002 of the Resource Conservation and Recovery Act {42 U.S.C. 6972 (a) (1) (A)} provides that citizens may bring compliance lawsuits against any person including the United States, and any other government instrumentality or agency alleged to be in violation of RCRA. Such a lawsuit may be filed if the violation continues 60 days after the citizen has notified the violator, and if other persons are not diligently prosecuting the case.

RCRA Section 4005 (42 U.S. Code 6945) allows citizen suits against "persons engaged in the act of open dumping." Persons include municipalities {42 U.S. Code 6903 (15)}. And the definition of municipality includes "an Indian Tribe or authorized tribal organization..." {42 U.S. Code 6903 (13)}. 42 U.S. Code 6903 (15) defines "person" as, besides "individuals," a "State, municipality,...or any interstate body."

The cities of Tempe, Scottsdale, and Mesa ship trash to the Tri-City Landfill, which is operated by the Salt River Pima-Maricopa Indian Community. This landfill, as documented by recent television and print-media coverage prompted by large amounts of garbage, trash, and other solid wastes washing down the Salt River after a heavy rain, is operated as an open dump in violation of RCRA, and the three cities' shipping solid wastes to the landfill is a "solid waste management practice or disposal of solid waste which constitutes the open dumping" of such waste. Besides this most recent event, there have been other similar occurrences after heavy rain or water releases from dams on the Salt River when garbage and trash have washed along the river. There has most assuredly been a violation of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977.

The ADEQ has the ability, resources, and responsibility to bring suit against the Salt River Pima-Maricopa Indian Community to force it to remedy pollution from the landfill. The ADEQ may



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also bring suit against the three cities to prevent disposal in an open dump and only require that the three cities' solid waste be only disposed of in sanitary landfills (U.S. Code 42 6944 (b), U.S. Code 42 6973 (a)).

SPC 7003
This is a 60-day notice of intent to bring suit if the ADEQ does not commence and diligently prosecute a civil and/or criminal action in a court of the United States to require the Salt River Pima-Maricopa Indian Community's Tri-City Landfill's compliance with the Resource Conservation and Recovery Act. Also, this is a 60-day notice of intent to sue if the ADEQ does not commence and diligently prosecute a civil and/or criminal action in a court of the United States to require the cities of Scottsdale, Tempe, and Mesa to only dispose of their solid wastes in sanitary landfills.

It is very unfortunate that it would take this notice to force the ADEQ to take the above-mentioned actions. The RCRA violations and other violations of federal law have occurred over a period of years without the appropriate agency response from the ADEQ.

Sincerely,

Steve Brittle

Steve Brittle.
Researcher